

Dr. Lawrence S. Feldman, Vice Chair

SUBJECT: DIRECT SUPERINTENDENT TO INITIATE RULEMAKING TO REQUIRE THAT ANY BOARD ITEM REQUESTING THE BOARD ENGAGE IN LEGAL ACTION OR THE FILING OF A LAWSUIT BE SUBMITTED WITH A RECOMMENDATION FROM THE SCHOOL BOARD ATTORNEY

COMMITTEE: INNOVATION, EFFICIENCY & GOVERNMENTAL RELATIONS
STRATEGIC
FRAMEWORK: SCHOOL/DISTRICT LEADERSHIP

During recent School Board meetings, several Board members have expressed their desire for items that request either that the Board initiate legal challenge or that they join a lawsuit to be vetted in a manner that allows for proper review and counsel by the School Board Attorney. Additionally, it was shared that these types of items involved complicated legal issues which Board members wished to consult with the School Board Attorney in order to make informed decisions.

The initiation of litigation or the filing of a lawsuit by the School Board, while in certain instances warranted, could conceivably expose the Board to the undue burden and significant expense often associated with litigation, hence the desire to have these types of issues completely vetted by the School Board Attorney in advance. The aforementioned, coupled with the deleterious effects attributable to discussing possible or anticipated litigation in a public setting, require that certain precautionary measures be established prior to public deliberations of items seeking the Board's involvement in litigation.

This item will not require that the School Board Attorney issue an opinion on every lawsuit that is filed by the Board. Rather, this would require when an item is presented to the Board seeking the initiation of litigation, that at a minimum, a statement to the effect that the School Board Attorney has been consulted and he is in agreement with or recommends the proposed action be taken be included in the item. In order to serve the best interest of the Board and to protect its ability to properly engage in any litigation involving the District, this item is presented to request authorization for the School Board to direct the Superintendent to initiate rulemaking to require any Board items seeking the commencement of formal legal action or the filing of a lawsuit to be submitted with a recommendation from the School Board Attorney.

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Revised
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**ACTION PROPOSED BY VICE CHAIR
DR. LAWRENCE S. FELDMAN:**

That the School Board of Miami-Dade County, Florida, direct the Superintendent, with the assistance of the School Board Attorney, to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to require that any Board item requesting the Board's involvement in or commencement of litigation or the filing of a lawsuit, be submitted to the Board for its consideration with a recommendation from the School Board Attorney.